

Election Assistance Commission

§ 9407.7

or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions;

(9) Disclose information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed action of the Commission. This exception shall not apply in any instance where the Commission has already disclosed to the public the content or nature of the proposed action or where the Commission is required by law to make such disclosure on its own initiative prior to taking final action on the proposal; or

(10) Specifically concern the issuance of a subpoena by the Commission; or the participation of the Commission in a civil action or proceeding, an action in a foreign court or international tribunal, or an arbitration; or the initiation, conduct, or disposition by the Commission of a particular case of formal adjudication under the procedures in 5 U.S.C. 554 or otherwise involving a determination on the record after opportunity for a hearing.

(b) Before a meeting or portions of a meeting may be closed to public observation, the Commission shall determine, notwithstanding the exemptions set forth in paragraph (a) of this section, whether the public interest requires that the meeting or portions of a meeting be open consistent with Federal law. The Commission may open a meeting or portions of a meeting that could be closed under paragraph (a) of this section if the Commission finds it to be in the public interest to do so and the disclosure is not otherwise prohibited by Federal law.

§ 9407.6 Procedures for closing meetings.

(a) A meeting or portions of a meeting may be closed and information pertaining to a meeting or portions of a meeting may be withheld under § 9407.5(a) only when a majority of the members of the Commission vote to take the action.

(b) A separate vote of the Commissioners shall be taken with respect to each meeting or portion of a meeting proposed to be closed and with respect to information which is proposed to be withheld. A single vote may be taken

with respect to a series of meetings or portions of a meeting that are proposed to be closed, so long as each meeting or portion of a meeting in the series involves the same particular matter and is scheduled to be held no more than 30 days after the initial meeting in the series. The vote of each participating Commission member shall be recorded, and no proxies shall be allowed.

(c) A person whose interests may be directly affected by a portion of a meeting may request in writing that the Commission close that portion of the meeting for any of the reasons referred to in § 9407.5(a)(5), (6), or (7). Upon the request of a Commissioner, a recorded vote shall be taken whether to close such meeting or a portion of a meeting.

(d) Before the Commission may hold a meeting that is closed, in whole or part, a certification shall be obtained from the General Counsel that, in his or her opinion, the meeting may properly be closed. The certification shall be in writing and shall state each applicable exemption provision from § 9407.5(a).

(e) Within one day of a vote taken under this section, the Commission shall make publicly available a written copy of such vote reflecting the vote of each Commissioner.

(f) In the case of the closure of a meeting or portions thereof, the Commission shall make publicly available within one day of the vote on such action a full written explanation of the reasons for the closing with a list of all persons expected to attend the meeting and their affiliation.

§ 9407.7 Recordkeeping requirements.

(a) The Commission shall maintain either a complete transcript or electronic recording of the proceedings of each meeting.

(b) In the case of either a meeting or portions of a meeting closed to the public under § 9407.5(a)(8) or (10), the Commission shall maintain a complete transcript, an electronic recording, or a set of minutes of the proceedings. If minutes are maintained, they shall fully and clearly describe all matters discussed and shall provide a full and accurate summary of any actions taken and the reasons for which such